

3:22-mj-00031

DISTRICT OF OREGON, ss: AFFIDAVIT OF ERICK HERNANDEZ

Affidavit in Support of a Criminal Complaint and Arrest Warrant

I, Erick Hernandez, being duly sworn, do hereby depose and state as follows:

Introduction and Agent Background

1. I am an “investigative or law enforcement officer of the United States” within the meaning of Title 18, United States Code, Section 2510(7). I am currently employed as a Detective with the Salem Police and sworn as a Task Force Officer (“TFO”) with the Federal Bureau of Investigations (“FBI”), and assigned to the Resident Office in Salem, Oregon. I have been a TFO since February 2020. I am authorized, and presently assigned, to investigate violations of the Comprehensive Drug Abuse Prevention and Control Act of 1970, Title 21, United States Code, *et seq.*, and other violations of federal law.

2. I am also a Detective with the Salem Police Department (Salem, Oregon) and have approximately fourteen (14) years of law enforcement experience. I have received training through the Department of Public Safety Standards and Training (DPSST) in the State of Oregon, for the certification as a police officer in the State of Oregon and I hold an Intermediate Certificate through this institution. I have had all stages of police training, including crime investigation, acquisition and preservation of evidence, felony apprehension, search and seizure, and other police operations. During my law enforcement career, I have participated in hundreds of drug related investigations and search warrants. I have personally utilized all means available to law enforcement during the course of an investigation, which includes but is not limited to: surveillance, informants, undercover officers, video surveillance, photography, pen registers,

vehicle trackers, wire taps, search warrants, body wires and other physical and technological investigative means.

3. I submit this affidavit in support of a criminal complaint and arrest warrant for Javen James PEDRO for Distribution of a Controlled Substance, in violation of 21 U.S.C. § 841(a)(1). As set forth below, there is probable cause to believe, and I do believe, that PEDRO committed the above listed offense.

Applicable Law

4. Title 21, United States Code, Section 841(a)(1), provides that it is unlawful to distribute and possess with the intent to distribute a controlled substance. Fentanyl is a Schedule II controlled substance.

Statement of Probable Cause

5. On February 24, 2022, sworn Salem Police officers responded to 4553 Anneka Loop Southeast, Salem Oregon on a report of a fatal overdose. When Salem Police Officer's arrived, they found Minor Victim 1, date of birth August xx, 2006 (15yrs old) to be unconscious. Medics transported Minor Victim 1 to the Salem Hospital where he was pronounced dead.

6. Detective Jon Garland and Detective Bidiman of the Salem Police Department responded to 4553 Anneka Loop Southeast, Salem, Oregon and spoke with several witnesses. One witness, a juvenile female said she watched Minor Victim 1 meet with someone the previous night within the driveway and Minor Victim 1 later returned with pills. The juvenile female further stated she watched Minor Victim 1 meet with a subject in a vehicle. The juvenile described the car as a small light-colored sedan.

7. The juvenile told Detective Garland that when Minor Victim 1 returned into the home he began smoking the pills he bought in front of other juveniles who were present. At the scene, detectives located several used strips of tin foil with black burnt residue streaks and one blue pill stamped M30. I know that users often ingest these pills by burning them on tin foil and then inhaling the smoke to get high.

8. Detective Garland spoke with an adult witness who lives next door at 4547 Anneka Loop Southeast, Salem, Oregon and obtained video surveillance from the residence. I have reviewed the video surveillance footage and it shows, that at approximately 9:40pm, a four-door sedan arrives and parks within the driveway of 4553 Anneka Loop Southeast, Salem, Oregon. At the same time the car is arriving, Minor Victim 1 can be seen walking from the residence to the car and meeting with the occupants inside the vehicle. Less than a minute later, Minor Victim 1 returns to the house and the car leaves the area. Detectives showed video surveillance to the witnesses who were present at the scene and more than one of the people identified the car as belonging to PEDRO, who they knew.

9. On February 24, 2022, Detective Garland and Detective Bidiman responded to 800 Ecols Street South, Monmouth Oregon and contacted PEDRO, date of birth March xx, 2003. PEDRO was advised of his constitutional *Miranda* rights and subsequently admitted to detectives he drove to Minor Victim 1's house the previous night and sold him ten oxycodone pills for \$100.00 dollars. PEDRO described the pills as being blue in color and stamped with an M30. PEDRO told detectives he believed the pills were either oxycodone or Percocet (a combination of oxycodone and acetaminophen). Furthermore, PEDRO admitted to detectives he's sold Minor Victim 1 pills approximately 5-10 times in the past.

10. Currently there has been a large increase of fraudulent Oxycodone pills being manufactured and distributed within the United States, including within the greater Salem, Oregon area. These fraudulent pills are commonly blue in color and stamped with an “M” on one side and “30” on the other. Drug dealers regularly counterfeit these pills and, while attempting to replicate the round shape, the blue color, and the stamp of “M” and “30,” they are instead manufacturing these pills with fentanyl as the active ingredient. The counterfeit pills, while looking roughly similar to the real thing can often be distinguished based upon their appearance. The counterfeit M30 pills often have a different shade of blue than the real thing and sometimes they are even manufactured in different colors, the edges of the pills and the stamped impressions are often rough and lack the precision of a real 30 mg Oxycodone Hydrochloride pill, and sometimes the counterfeit pills will crumble easily under pressure. The presence of fentanyl in these counterfeit M30 pills that we are seeing in Oregon has been repeatedly verified by laboratory analysis, chemical field tests, as well as interviews with both informants and defendants. I have seen and seized thousands of these counterfeit M30 pills and lab reports have always confirmed the presence of fentanyl, a Schedule II controlled substance, within them. I can tell that the pills seized in this investigation are counterfeit. I know that both oxycodone and fentanyl are Schedule II controlled substances.

Conclusion

11. Based on the foregoing, I have probable cause to believe, and I do believe, that Javen James PEDRO committed the crime of Distribution of a Controlled Substance (fentanyl), in violation of 21 U.S.C. § 841(a)(1). I therefore request that the Court issue a criminal complaint and arrest warrant for Javen James PEDRO.

12. Prior to being submitted to the Court, this affidavit, the accompanying complaint and the arrest warrant were all reviewed by Assistant United States Attorney Scott Kerin. AUSA Kerin advised me that in his opinion the affidavit and complaint are legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.

By Phone

Erick Hernandez
Task Force Officer
Federal Bureau of Investigations

Sworn in accordance with the requirements of FED. R. CRIM. P. 4.1 by telephone at 7:04 p.m.

~~xxxx/xxx~~ on February 24, 2022.

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HONORABLE YOULEE YIM YOU
United States Magistrate Judge